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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRAIL AND APPEAL BOARD

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BUCKSHOT, INC.)	In the Matter of Trademark	TRAC 02
Petitioner))	Registration No. 2,106,871 Mark: BUCK-SHOT Registered: October 21, 1997	ACC 30
v.))	100000000000000000000000000000000000000	0 23
NORTHLAND FISHING TACKLE, INC. Registrant)	Cancellation No.	<u> </u>
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BOX TTAB FEE Commissioner of Trademarks 2900 Crystal Drive Arlington, VA 22202-3513

10-17-2002

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #76

PETITION FOR CANCELLATION

Petitioner, Buckshot, Inc., a corporation organized and existing under the laws of the State of North Carolina, and doing business at P. O. Box 7127, Wilmington, NC 28406, believes that it is or will be damaged by Registration No. 2,106,871 and hereby petitions to cancel the same.

The mailing address for Registrant is believed to currently be 1001 Naylor Dr. SE, Bemidji, MN 56601. The mailing address of Registrant shown on the registration is 3209 Mill Street, NE, Bimidji, MN 56601.

As grounds for cancellation, it is alleged that:

1. The Registrant has obtained a registration for BUCK-SHOT for "fishing tackle," claiming a date of first use of September, 1995.

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- 2. Petitioner is now and has been engaged in the business of manufacturing and selling hunting stands.
- Petitioner adopted and has been continually using the trademark
 BUCKSHOT as a trademark for its hunting stands since at least as early as November 4,
 1988, and is now using said mark.
- 4. Petitioner has spent substantial sums of money in the advertising, promotion, and distribution of its goods provided under the BUCKSHOT mark and has so used said mark in connection with said business such that the public has come to associate said mark with Petitioner and as indicating that the goods so marked originate with Petitioner.
- 5. On July 21, 2000, Petitioner filed an application in the United States

 Patent and Trademark Office to register BUCKSHOT for "hunting stands". On

 September 28, 2001, the Examining Attorney refused registration of Petitioner's mark,

 holding that a likelihood of confusion was created with Registrant's BUCK-SHOT mark.

 This holding was repeated and made FINAL on May 6, 2002.
- 6. The continuing existence of Registration No. 2,106,871 is causing injury and damage to Petitioner by blocking registration of Petitioner's trademark. As ruled by the Examining Attorney, there is a likelihood of confusion between Registrant's mark and Petitioner's mark. Petitioner began using its BUCKSHOT mark more than seven years before Registrant began use of its BUCK-SHOT mark, thereby making Petitioner the senior user in the United States.

WHEREFORE, Petitioner requests cancellation of Registration No. 2,106,871.

A duplicate copy of this petition is enclosed herewith, along with a check in the amount of \$300.00 for the petition fee. If any additional fees are required, the

Commissioner is authorized to charge such fees to Petitioner's Account No. 501923.

Respectfully submitted,

William J. Mason

Attorney for Petitioner MacCord Mason PLLC

2004 Eastwood Road, Suite 201

Wilmington, NC 28403

(910) 256-3557

CERTIFICATE OF MAILING/EXPRESS MAIL

"Express Mail" Mailing Label Number EV173437982US

Date of Deposit: October 17, 2002

I hereby certify that this paper, which is a PETITION FOR CANCELLATION is being

deposited with the United States Postal Service "Express Mail Post Office to Addressee"

service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner

for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

William J. Mason

Registration No. 22,948

Our File No.: 5427-028

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